

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SAMUEL ELIAS PENA COLUMNA,

Defendant.

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Case No. 3:19-cr-0065

ORDER

THIS MATTER was previously scheduled for Jury Selection and Trial for May 23, 2022. On May 13, 2022, this Court held a pretrial status conference and discussed, among others, continuing the trial date due to circumstances surrounding the COVID-19 pandemic in the U.S. Virgin Islands. The Government indicated that it would have no objection to a continuance. The defense objected. On May 20, 2022, the Court entered an Order continuing the Jury Selection and Trial scheduled for May 23, 2022, to a date to be determined in a subsequent Order. For the reasons stated herein, the time to try this case is extended up to and including September 12, 2022.

In response to the current conditions in the COVID-19 pandemic, the undersigned, as Chief Judge of the District Court of the Virgin Islands, issued a general order concerning operations of the Court on April 30, 2022, tentatively continuing the resumption of jury trials as determined and scheduled by the presiding judge in each case. The Court hereby fully incorporates the findings from the Court's Thirty-Seventh Operations Order as fully stated herein. The circumstances as far as the state of the COVID-19 pandemic in the Virgin Islands has changed dramatically from the date of the Thirty-Seventh Operations Order.

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To date, the COVID-19 virus has claimed more than 1,002,020 lives in the United States (113 of which have been in the U.S. Virgin Islands). COVID-19 continues to present an unpredictable threat to public health and safety, as shown in the recent surge in COVID-19 cases both in the continental United States and the Virgin Islands. During the status conference held on May 13, 2022, the Court expressed its concern with proceeding with a jury trial in the middle of what appeared to be “surge” in COVID-19 infections in the territory. The number of COVID-19 cases in the territory continue to remain extremely high. Specifically, on May 16, 2022, the Virgin Islands Department of Health (“DOH”) reported that there are 901 active cases in the U.S. Virgin Islands (St. Thomas & Water Island – 518, St. Croix – 362, St. John – 21). The DOH also reported that the U.S. Virgin Islands was experiencing a positivity rate of 14.92% with sixteen (16) individuals hospitalized due to COVID-19. While the number of fatalities in the territory have not increased commensurately, the Court is wary that such a drastic spike in active cases may well precede a rise in COVID-19 related fatalities by several weeks. As such, the Court finds that extending the period within which Defendants may be tried under the Speedy Trial Act is necessary for the protection and well-being of the Defendants, the jury, the prosecutors, the witnesses, the Court’s personnel, and the general public at large.

Accordingly, after careful consideration and review and for the reasons stated herein as well as on the record during the pretrial status conference held on May 13, 2022, it is hereby

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ORDERED that the time beginning from the date of this order granting an extension through September 12, 2022, **SHALL** be excluded in computing the time within which the trial in this matter must be initiated pursuant to 18 U.S.C. § 3161; it is further

ORDERED that the parties **SHALL** file and serve a pre-trial brief no later than September 6, 2022, which shall include the following: (a) proposed list of witnesses; (b) proposed list of exhibits; (c) estimated length of case-in-chief and case-in-defense; (d) proposed non-standard *voir dire* questions; and (e) proposed non-standard jury instructions related to the elements of the charges and defenses; it is further

ORDERED that the parties **SHALL** provide the Clerk of Court with a USB Flash Drive containing electronic versions of exhibits no later than September 7, 2022;¹ and it is further

ORDERED that the Jury Selection and Trial in this matter previously scheduled for May 23, 2022, is hereby **RESCHEDULED** to commence promptly at 9:00 a.m. on September 12, 2022, in St. Thomas Courtroom 1 before Chief Judge Robert A. Molloy.

Dated: May 23, 2022

/s/Robert A. Molloy
ROBERT A. MOLLOY
Chief Judge

¹ Counsel are advised to consult with Court technical staff to determine the proper format for saving electronic versions of exhibits. The Government's trial exhibits shall be labelled sequentially beginning with Government's Exhibit 1. Defense exhibits shall be labelled sequentially beginning with Defense Exhibit A.